

RESOLUTION _____

A RESOLUTION relating to the Cedar River Watershed, directing preparation of the Final Cedar River Watershed Habitat Conservation Plan and other related documents necessary to obtain an incidental take permit from the federal government under the Endangered Species Act (ESA); authorizing the Mayor to sign and execute the Final Habitat Conservation Plan and related agreements; directing preparation of an ordinance providing for amendments to the Secondary Use Policies and amendments to the budget of Seattle Public Utilities; expressing intention to provide City funds to complete the Cedar River Watershed Education Center; and directing the City Budget Office to submit a proposed ESA funding policy framework to the Council.

WHEREAS, the Cedar River Municipal Watershed has been the primary source of water supply for the City of Seattle and neighboring communities for almost one hundred years; and

WHEREAS, throughout this one hundred year period the City has followed a policy of acquiring ownership of lands within the watershed to enhance control of human activities and protect the high quality of the water; and

WHEREAS, the City presently owns approximately 90,500 acres, virtually all of the land upstream of its water supply intake facilities; and

WHEREAS, the City Council passed Ordinance 114632 on August 7, 1989, approving a set of policies, known as the Secondary Use Policies, for the use and management of the watershed; and

WHEREAS, the Cedar River Municipal Watershed and the lower Cedar River are home to many species of fish and wildlife, some of which are listed as endangered or threatened under the Endangered Species Act; and

WHEREAS, on March 14, 1997, the City reached Agreement in Principle with five Federal and State agencies on major terms of a Habitat Conservation Plan (HCP) for the Cedar River Municipal Watershed which would establish the City's long-term commitments regarding watershed habitat protection and restoration and mitigation for impacts resulting from the presence and operation of certain City-owned facilities, all in exchange for certain releases and settlement of various water resource management issues with the other parties; and

WHEREAS, on November 10, 1997, following public review and comment on the Agreement in Principle and other information and analyses of the intended HCP, the City Council adopted Resolution 29657 establishing goals for the Cedar River Municipal Watershed and directing preparation of a draft HCP based on the Agreement in Principle and guided by the adopted goals, and preparation of related environmental documents, implementing agreements, and other technical information; and

WHEREAS, the City conducted more than 100 meetings, workshops, presentations and field trips on issues and options related to the HCP prior to completing and releasing a draft HCP; and

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WHEREAS, in December 1998, the City released for public review a Draft HCP, a Draft Environmental Assessment/Environmental Impact Statement, detailed implementing agreements negotiated with the five Federal and State agencies, and related technical information; and

WHEREAS, the City conducted four public workshops and two public hearings attended by approximately 1400 people, and received hundreds of written comments from organizations and individuals during the public review period ending March 1, 1999; and

WHEREAS, the City has carefully considered the information provided and comments expressed in the public review process and has published its Final Environmental Assessment/Environmental Impact Statement for the HCP; and

WHEREAS, in March 1999, the City Council adopted Resolution 29905 laying out the elements of the City's early action response to the listing of Puget Sound Chinook under the Endangered Species Act and committing up to \$15 million for implementation of the proposal, including \$3 million for acquisition of habitat in the lower Cedar River Watershed; and

WHEREAS, in June 1999, the City Council held a public hearing on the Mayor's recommended changes to the Draft HCP; and

WHEREAS, the Cedar River Watershed HCP will enable the City to maintain the availability and quality of the region's primary water supply, meet the requirements of the Endangered Species Act, and resolve related issues with the state and federal governments; and

WHEREAS, the final HCP represents the culmination of more than five years of study to develop a comprehensive, scientifically-based plan to restore the diverse ecosystems of the Cedar River Watershed; and

WHEREAS, the City believes that the final HCP, incorporating the changes to the draft HCP specified in this Resolution, will be a national model for large-scale watershed protection and restoration that will leave a lasting legacy for fish, wildlife and people.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SEATTLE, THE MAYOR CONCURRING, THAT:

Section 1. The Director of Seattle Public Utilities, in cooperation with the Superintendent of Seattle City Light, is directed to prepare a Final Habitat Conservation Plan (HCP) for the Cedar River Municipal Watershed, substantially as set forth in the Draft HCP dated December, 1998, with the modifications described in Exhibit A to this resolution.

Section 2. The Director of Seattle Public Utilities, in cooperation with the Superintendent of Seattle City Light, is further directed to prepare such other documents, reports and information as may be necessary for an application to the United States Fish and Wildlife Service (USFWS) and the National Marine Fisheries Service (NMFS) to fulfill the

requirements for an incidental take permit based on the policies, plans and commitments in the Final HCP, prepared pursuant to Section 1 of this resolution.

Section 3. The Mayor is hereby authorized to:

- a) Submit, on behalf of the City, the Final HCP and other related documents, reports and information prepared pursuant to Section 1 of this resolution, to the USFWS and NMFS for their approval and issuance of an incidental take permit;
- b) Sign and execute, on behalf of the City, the HCP Implementation Agreement, the Instream Flow Agreement and the Landsburg Mitigation Agreement, all substantially in the form contained in the Public Review Draft Technical Appendices to the Draft Cedar River Watershed HCP, and Environmental Assessment/Environmental Impact Statement, dated December, 1999, as any or all of them may be modified pursuant to Section 1 of this resolution.

Section 4. The Director of Seattle Public Utilities is directed to prepare and submit to the City Council one or more ordinances that:

- a) Amend the 1999-2000 Budget of Seattle Public Utilities to provide for implementation of the HCP by increasing certain expenditure allowances, establishing certain additional positions, and proposing a "salmon surcharge" of no more than 3.5% on previously approved water rates for the year 2000;
- b) Dedicate any net proceeds derived from sales of Seattle Public Utilities' surplus lands for the exclusive purpose of offsetting the costs of implementing the HCP; and
- c) Amend Ordinance 114632 (Secondary Use Policies) to state that timber will not be harvested for commercial purposes in the Cedar River Municipal Watershed and dedicating any net proceeds derived from ecological thinning for the exclusive purpose of offsetting the costs of implementing the HCP.

Section 5. As part of implementing the HCP, Seattle Public Utilities shall submit the following reports to the City Council:

- a) Within the first year of HCP implementation, a report identifying options and recommendations for administration of the downstream habitat program. The report shall include recommendations regarding relative priorities of acquisition vs. restoration projects and it shall also includes options for how the lands will be owned and managed, including partnership opportunities with nonprofit land conservation organizations; and
- b) No later than five years after implementation has begun, a review and assessment of the road removal program in the HCP. The report shall address SPU's progress in meeting the program's goals and identify any recommended changes that should be considered in implementing the program, including the feasibility of removing additional road segments.

Section 6. Recognizing the importance of environmental education to the long term implementation of the Cedar River Watershed HCP, the Mayor and City Council hereby commit to allocate a total of \$4,000,000 from Seattle Public Utilities' Water Fund Capital Improvement Program (CIP) for the purpose of completing construction of the Cedar

1 River Watershed Education Center in 2001. These City funds are intended to supplement
2 \$2 million in private donations that will be applied toward design and construction of the
3 Center. SPU is directed to provide a status report on the Water Fund CIP program when
4 it presents its 2000 water rate adjustment to the Council in the 3rd quarter of 1999. The
5 report shall include a recommended construction schedule for the Cedar River Watershed
6 Education Center.

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8 Section 7. In addition to the policy direction provided in Exhibit A, the Council recognizes the
9 need to clarify the City's decision at this time in regard to the proposed sockeye hatchery
10 on the Cedar River. It is the Council's intent to approve the hatchery project at this time
11 contingent on completion of scientific and technical studies in Year 3 of implementing the
12 HCP. At that time, it is recognized that the parties to the HCP (the City, NMFS, USFWS,
13 and WDFW) will evaluate the scientific and technical studies and make a final decision
14 regarding the design, capacity, operating guidelines, and adaptive management program
15 for the hatchery.

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17 Section 8. While the purpose and function of the HCP is not to authorize or establish limits on the
18 City's water diversions or to address the City's water supply planning process, there has
19 nevertheless been citizen comment seeking to have the City ensure that some of the water
20 which it may be entitled to withdraw under its water right should instead be left in the
21 river for the benefit of fish over the term of the HCP. Therefore, SPU is directed to
22 include in the HCP a statement of its intent to develop and implement a legal mechanism
23 such as a trust or other arrangement by which it can reserve, for the length of the HCP,
24 one-third or 100 mgd of its water right claim (on an annual average basis) for the benefit
25 of fish, subject to the following conditions: i) that the water so reserved is available to the
26 City for emergency situations (natural disasters, pipeline failures, water quality events,
27 extreme drought, and system failures); and ii) that the reserved water is protected from
28 appropriation by third parties.

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30 SPU is further directed to include in the HCP a statement of its intent to reserve an
31 additional one-sixth or 50 mgd of its water right claim (on an annual average basis)
32 through the same mechanism and subject to the same conditions described above, and
33 subject to the additional condition that the City receives appropriate assurances from
34 the Muckleshoot Indian Tribe, including their full support of the HCP and their
35 commitment to participate as good faith partners in developing other regional water
36 supplies.

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38 Prior to implementing the additional flow commitments described in this section, SPU
39 shall submit the program and/or agreement to the Council for review and approval by
40 ordinance.

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42 Section 9. Final action to implement the HCP and related agreements is contingent on resolution
43 of the administrative appeal that has been filed challenging certain aspects of the
44 Environmental Impact Statement on the Draft HCP. Should any revision of the EIS be
45 ordered, the City Council will reconsider those parts of the HCP and related agreements
46 that are addressed by the revised EIS.
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Section 10. Copies of the final signed HCP and related agreements shall be filed with the City Clerk.

Section 11. The City Budget Office is directed to submit to the Council, no later than August 30th, 1999, a proposed funding policy to be used as a guide in allocating the costs of the City's ESA programs & activities among the City's various funds. The report shall be submitted to the Utilities and Environmental Management Committee and the Finance and Budget Committee.

Adopted by the City Council the ____ day of _____, 1999, and signed by me in open session in authentication of its adoption this ____ day of _____, 1999.

President of the City Council

THE MAYOR CONCURRING:

Paul Schell, Mayor

Filed by me this ____ day of _____, 1999.

City Clerk

(Seal)

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EXHIBIT A

AMENDMENTS

TO THE

DRAFT CEDAR RIVER WATERSHED HABITAT CONSERVATION PLAN

This Exhibit lists the specific changes to the Draft HCP that are required in order to implement the Mayor’s HCP Recommendations. It also indicates the additional changes that have been adopted by the City Council. Together, these reflect the policies that will be incorporated into the Final Draft of the Cedar River Watershed HCP.